

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
 2 A Limited Liability Partnership
 3 Including Professional Corporations
 4 LEO D. CASERIA, Cal Bar No. 240323
 5 lcaseria@sheppardmullin.com
 6 333 South Hope Street, 43rd Floor
 7 Los Angeles, California 90071-1422
 8 Telephone: 213.620.1780
 9 Facsimile: 213.620.1398

10 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
 11 A Limited Liability Partnership
 12 Including Professional Corporations
 13 MONA SOLOUKI, Cal Bar No. 215145
 14 msolouki@sheppardmullin.com
 15 Four Embarcadero Center, 17th Floor
 16 San Francisco, California 94111-4109
 17 Telephone: 415.434.9100
 18 Facsimile: 415.434.3947

19 Attorneys for Non-Parties
 20 SAMSUNG SEMICONDUCTOR, INC. and
 21 SAMSUNG ELECTRONICS AMERICA, INC.

22 [Additional counsel listed on signature page]

23 UNITED STATES DISTRICT COURT
 24 NORTHERN DISTRICT OF CALIFORNIA
 25 SAN JOSE DIVISION

26 In re *Ex Parte* Application of:

Case No. 5:23-mc-80322-EJD

27 CONSUMERS' ASSOCIATION,

**STIPULATION AND ~~PROPOSED~~ ORDER
 EXTENDING TIME FOR SAMSUNG
 SEMICONDUCTOR, INC. AND
 SAMSUNG ELECTRONICS AMERICA,
 INC. TO FILE MOTION TO QUASH
 WHICH?'S AND QUALCOMM'S
 SUBPOENAS**

28 Petitioner for an Order Pursuant to 28 U.S.C.
 29 § 1782 to Conduct Discovery for Use in a
 30 Foreign Proceeding

31 In re *Ex Parte* Application of:

Case No. 5:24-mc-80019-EJD

32 QUALCOMM INCORPORATED,

Judge: Edward J. Davila

33 Application for an Order Pursuant to 28 U.S.C.
 34 § 1782 Granting Leave to Conduct Discovery
 35 for Use in a Foreign Proceeding

36 Case No. 5:23-mc-80322-EJD
 37 Case No. 5:24-mc-80019-EJD

1 Whereas on December 7, 2023, Consumers' Association ("Which?") filed an *ex parte*
2 application in this miscellaneous action pursuant to 28 U.S.C. § 1782 for permission to seek
3 discovery from Samsung Semiconductor, Inc. ("SSI"), Samsung Electronics America, Inc.
4 ("SEA"), and Apple, Inc. for use in a foreign proceeding against Qualcomm Incorporated in the
5 United Kingdom ("U.K. Class Action") pending before the United Kingdom Competition Appeal
6 Tribunal.

7 Whereas on January 23, 2024, the Court granted Which?'s *ex parte* application
8 "WITHOUT PREJUDICE to any argument that may be raised in a motion to quash or modify the
9 subpoena from Apple and the Samsung Entities," and further ordered that "Apple and the
10 Samsung Entities may file—no later than 30 days after service or notice—a motion to quash or
11 modify the subpoenas before this Court[.]" (ECF 21 at 7.)

12 Whereas on January 29, 2024, SSI received a copy of Which?'s subpoena, and SEA was
13 served with Which?'s Subpoena on February 2, 2024.

14 Whereas, SSI and SEA timely served written objections to Which?'s Subpoenas pursuant
15 to F. R. Civ. P. 45.

16 Whereas on January 26, 2024, Qualcomm Incorporated filed a separate *ex parte*
17 application pursuant to 28 U.S.C. § 1782 to seek discovery from SSI and SEA, and Apple for use
18 in the U.K. Class Action. *In re Ex Parte Application of: Qualcomm Incorporated*, 5:24-mc-
19 80019-NC (N.D. Cal.)

20 Whereas on February 7, 2024, the Court ordered to relate Qualcomm's separate action to
21 Which?'s present action. (ECF 24.)

22 Whereas on February 9, 2024, the Court also granted Qualcomm’s separate *ex parte*
23 application “WITHOUT PREJUDICE to any argument that may be raised in a motion to quash or
24 modify the subpoena from Apple and the Samsung Entities” and also ordered that “Apple and the
25 Samsung Entities may file—no later than 30 days after service or notice—a motion to quash or
26 modify the subpoenas before this Court.” *In re Ex Parte Application of: Qualcomm Inc.*, 5:24-mc-
27 80019-EJD, ECF 14 at 6.

Whereas Qualcomm has not yet served subpoenas on SSI or SEA, but has asked outside counsel for SSI and SEA in this matter whether they will accept service of its subpoenas.

Whereas SSI and SEA are willing to accept service through outside counsel if Qualcomm agrees to extend the motion to quash deadline until April 3, 2024.

Whereas the parties need additional time to meet and confer in order to explore whether a compromise can be reached that would obviate the need for a motion to quash.

NOW THEREFORE, the parties ask the Court to extend the deadline for SSI's and SEA's motions to quash Which?'s and Qualcomm's subpoenas until April 3, 2024. The timing and procedures set forth in Federal Rule of Civil Procedure 45 shall otherwise apply.

Dated: February 16, 2024

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ Leo D. Caseria
LEO D. CASERIA
MONA SOLOUKI

Attorneys for Non-Parties
SAMSUNG SEMICONDUCTOR, INC. and
SAMSUNG ELECTRONICS AMERICA, INC.

1
2 By: /s/ Samuel Maida
3 SAMUEL MAIDA

4 HAUSFELD LLP
5 Samuel Maida (Cal. Bar No. 333835)
6 600 Montgomery Street, Suite 3200
7 San Francisco, CA 94111
8 Telephone: (415) 633-1908
Facsimile: (415) 358-4980
E-mail: smaida@hausfeld.com

9 Reena A. Gambhir (admitted *pro hac vice*)
10 Brittany L. Nyovanie (admitted *pro hac vice*)
11 888 16th Street NW, Suite 300
12 Washington, DC 20006
Telephone: (202) 540-7200
Facsimile: (202) 540-7201
E-mail: rgambhir@hausfeld.com
E-mail: bnieves@hausfeld.com

13
14 Attorneys for Petitioner
15 CONSUMERS' ASSOCIATION

16
17
18
19
20
21
22
23
24
25
26
27
28 Case No. 5:23-mc-80322-EJD
Case No. 5:24-mc-80019-EJD

1 By: /s/ Katherine G. Connolly
2 KATHERINE G. CONNOLLY

3 NORTON ROSE FULBRIGHT US LLP
4 Katherine G. Connolly (SBN 313640)
5 555 California Street, Suite 3300
6 San Francisco, CA 94104
7 Telephone: (628) 231-6800
8 Facsimile: (628) 231-6799
9 E-mail: katie.connolly@nortonrosefulbright.com

10 Richard S. Zembek (admitted *pro hac vice*)
11 1301 McKinney Street, Suite 5100
12 Houston, TX 77010
13 Telephone: (713) 651-5151
14 Facsimile: (713) 651-5246
15 E-mail: richard.zembek@nortonrosefulbright.com

16 Felice Galant (admitted *pro hac vice*)
17 1301 Avenue of the Americas
18 New York, NY 10019
19 Telephone: (212) 318-3000
20 Facsimile: (212) 318-3400
21 E-mail: felice.galant@nortonrosefulbright.com

22 Attorneys for Applicant
23 QUALCOMM INCORPORATED

24 **ATTESTATION**

25 Under Civil Local Rule 5-1(h)(3), I hereby attest under penalty of perjury that the
26 concurrence in the filing of this document has been obtained from the signatories above.

27 /s/ Leo D. Caseria
28 LEO D. CASERIA

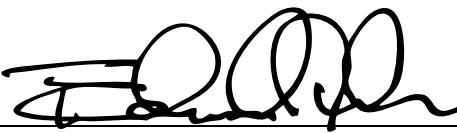
Case No. 5:23-mc-80322-EJD
Case No. 5:24-mc-80019-EJD

1 **[PROPOSED] ORDER**
2
3

4 **GOOD CAUSE APPEARING, IT IS SO ORDERED that:**
5
6

7 The deadline for Samsung Semiconductor, Inc. and Samsung Electronics America, Inc. to file a
8 motion to quash the subpoenas served on them by Consumers' Association and Qualcomm
9 Incorporated shall be extended to April 3, 2024. The timing and procedures set forth in Federal
10 Rule of Civil Procedure 45 shall otherwise apply.
11
12

13 Date: February 16, 2024
14

15 
16 HONORABLE EDWARD J. DAVILA
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28

Case No. 5:23-mc-80322-EJD
Case No. 5:24-mc-80019-EJD